

EXHIBIT DD

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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 THE WIMBLEDON FUND, SPC
14 (CLASS TT),

15 Plaintiff,

16 v.

17 GRAYBOX, LLC; INTEGRATED
18 ADMINISTRATION; EUGENE SCHER,
19 AS TRUSTEE OF BERGSTEIN TRUST;
20 CASCADE TECHNOLOGIES CORP.
21 and THE LAW OFFICES OF HENRY N.
22 JANNOL,

23 Defendants.

24 CONSOLIDATED CASE NO.: 2:15-
25 CV-6633-CAS-AJWx

26 **STIPULATION OF DISMISSAL OF
27 DEFENDANTS GRAYBOX, LLC,
28 EUGENE SCHER AS TRUSTEE OF
BERGSTEIN TRUST, CASCADE
TECHNOLOGIES CORP., THE
LAW OFFICES OF HENRY N.
JANNOL, DAVID BERGSTEIN,
AARON GRUNFELD, AND
JEROME SWARTZ**

29
30 AND CONSOLIDATED ACTION AND
31 RELATED THIRD PARTY ACTIONS
32

1 Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure and in
2 accordance with the terms and conditions of a confidential compromise settlement and
3 release agreement, Plaintiff The Wimbledon Fund SPC (Class TT) (the “Fund”), on
4 the one hand, and Defendants Graybox, LLC (“Graybox”), David Bergstein
5 (“Bergstein”), Eugene Scher as Trustee of the Bergstein Trust (“Scher”), Cascade
6 Technologies Corp. (“Cascade”), the Law Offices of Henry N. Jannol (“Jannol”),
7 Jerome Swartz (“Swartz”), and Aaron Grunfeld (“Grunfeld”) (and, together with the
8 Fund, the “Stipulating Parties”), hereby stipulate, through undersigned counsel, to
9 entry of an Order dismissing with prejudice all claims asserted in this case by the
10 Fund against Graybox, Bergstein, Scher, Cascade, Jannol, Swartz, and Grunfeld (the
11 “Stipulation”), and respectfully show the Court as follows:

12 **RECITALS**

13 1. On July 30, 2015, the Fund filed a complaint in the United States District
14 Court for the Southern District of Texas, Case No. 4:15-cv-02193, against Bergstein,
15 Swartz, Grunfeld, and Kia Jam (“Jam”) (the “Texas Action”).

16 2. On August 28, 2015, the Fund filed its complaint before this Court,
17 against Graybox, Integrated Administration (“IA”), Scher, Jannol and Cascade (the
18 “California Action”), which was eventually consolidated with the Texas Action
19 (becoming this “Consolidated Action”).

20 3. On September 9, 2015, the Fund filed a motion for preliminary injunction
21 against Graybox in the California Action, seeking a preliminary injunction freezing
22 the sum of \$2,412,000 that was expected to be deposited into the trust account of
23 Bienert, Miller & Katzman, PLC (“BMK”).

24 4. On October 20, 2015, the Court entered its final order granting the
25 Fund’s motion for preliminary injunction (the “Preliminary Injunction”). Pursuant to
26 the Preliminary Injunction, the Court ordered certain funds totaling \$2,412,000 (the
27 “Frozen Funds”) be held in trust in the client trust account maintained by BMK during
28 the pendency of the Consolidated Action or until further order of the Court.

5. On January 9, 2017, the Court granted a motion filed by certain defendants, including Graybox and Bergstein, to stay this case pending the criminal trial of Bergstein.

6. The Fund and certain of the defendants participated in a confidential settlement conference, pursuant to which a settlement (the “Confidential Settlement”) of all claims and causes of action in this case has been reached, with exception to the claims and causes of action the Fund has asserted in the Consolidated Action against Jam and IA. The terms of the Confidential Settlement and related communications are privileged and confidential as settlement communications.

7. On August 16, 2017, pursuant to the Settlement, the Fund, Graybox, and Bergstein filed a joint stipulation (the “Joint Stipulation”) requesting that the Court lift its stay of the case for the limited purpose of modifying the terms of the Preliminary Injunction and directing BMK to release the full amount of the Frozen Funds to the Fund.

8. On August 18, 2017, the Court entered its order approving the Joint Stipulation and directing BMK to pay the full amount of the Frozen Funds, \$2,412,000, to the Fund, which had an interest and entitlement to the Frozen Funds relating back to the date of entry of the Preliminary Injunction, and keeping the stay in place otherwise.

9. Accordingly, the Settling Parties now Stipulate and request that the Court enter an order on the following terms:

STIPULATION

A. The Fund's claims and causes of action against Graybox, Bergstein, Scher, Cascade, Jannol, Swartz, and Grunfeld are dismissed with prejudice.

B. The Fund's interest and entitlement to the Frozen Funds, which relates back to the date of entry of the Preliminary Injunction, was satisfied by payment of the Frozen Funds pursuant to the order approving the Joint Stipulation.

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1 C. The Consolidated Action shall remain stayed as to Jam and IA unless and
2 until the Fund moves for and obtains an order of this Court lifting the stay, or
3 otherwise seeks dismissal of the case, or until further order of this Court.
4

5 Dated: January 4, 2018

COLE SCHOTZ P.C.

6 By: /s/ James W. Walker

7 James W. Walker (admitted pro hac vice)

8 Attorneys for Plaintiff,

9 The Wimbledon Fund, SPC (Class TT)

10 *Pursuant to L.R. 5-4.3.4, James W. Walker hereby attests that all other signatories listed, and on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.*

11 Dated: January 4, 2018

LAW OFFICES OF HENRY N. JANNOL APC

12 By: /s/ Henry N. Jannol

13 Henry N. Jannol

14 Attorneys for Defendant

15 The Law Office of Henry N. Jannol

16 David Bergstein and Graybox, LLC

17 Dated: January 4, 2018

LAW OFFICES OF AARON A. GRUNFELD

18 By: /s/ Aaron A. Grunfeld

19 Aaron A. Grunfeld

20 Attorneys for Defendant Aaron A. Grunfeld

21 Dated: January 4, 2018

MCGARRIGLE KENNEY AND

22 ZAMPIELLO, APC

23 By: /s/ Patrick C. McGarrigle

24 Patrick C. McGarrigle

25 Attorneys for Defendants Eugene Scher as

26 Trustee of Bergstein Trust and

27 Cascade Technologies Corp.

28 Dated: January 4, 2018

MOULTON, WILSON & ARNEY, LLP

29 By: /s/ Lance Arney

30 Lance Arney

31 Attorneys for Defendant

32 Jerome Swartz

1 Dated: January 4, 2018, 2017

423257-1

BIENERT, MILLER & KATZMAN PLC
By: /s/ Steven Jay Katzman
Steven Jay Katzman
Attorneys for Defendants David Bergstein
and Graybox, LLC

PROOF OF SERVICE

1 STATE OF CALIFORNIA, COUNTY OF ORANGE

2 I am employed in the County of Orange, State of California. I am over the age of
3 18 and not a party to the within action. My business address is 903 Calle Amanecer, Suite
4 350, San Clemente, California 92673. I declare that I am employed in the office of a
member of the bar of this Court at whose direction the service was made.

5 On January 4, 2018, I served the foregoing document described as
6 **STIPULATION OF DISMISSAL OF DEFENDANTS GRAYBOX, LLC,**
7 **EUGENE SCHER AS TRUSTEE OF BERGSTEIN TRUST, CASCADE**
8 **TECHNOLOGIES COPR., THE LAW OFFICES OF HENRY N. JANNOL,**
DAVID BERGSTEIN, AARON GRUNFELD, AND JEROME SWARTZ on all
interested parties in this action by placing a true copy thereof enclosed in a sealed
envelope addressed as stated on the attached service list:

9 [] **BY MAIL** - I deposited such envelope in the mail at San Clemente, California.
10 The envelope was mailed with postage thereon fully prepaid. I am "readily
11 familiar" with the firm's practice of collection and processing correspondence for
mailing. Under that practice it would be deposited with the U.S. Postal Service on
12 that same day with postage thereon fully prepaid at San Clemente, California in the
ordinary course of business. I am aware that on motion of the party served, service
13 is presumed invalid if postal cancellation date or postage meter date is more than
one (1) day after date of deposit for mailing in affidavit.

14 [] **BY PERSONAL SERVICE** - I caused such envelope to be delivered by a process
15 server employed by Name of process service company .

16 [] **VIA FACSIMILE** - I faxed said document, to the office(s) of the addressee(s)
17 shown above at their stated facsimile numbers, and the transmission was reported
as complete and without error.

18 [X] **BY ELECTRONIC TRANSMISSION** - I transmitted a PDF version of this
19 document by electronic mail to the party(s) identified on the attached service list
using the e-mail address(es) indicated.

20 [] **BY OVERNIGHT DELIVERY** - I deposited such envelope for collection and
21 delivery by Federal Express with delivery fees paid or provided for in accordance
22 with ordinary business practices. I am "readily familiar" with the firm's practice of
collection and processing packages for overnight delivery by Name of Company .
23 They are deposited with a facility regularly maintained by Name of Company for
receipt on the same day in the ordinary course of business.

24 I declare under penalty of perjury under the laws of the United States of America
25 that the foregoing is true and correct.

26 Executed on January 4, 2018, at San Clemente, California.

27 /s/ Carolyn K. Howland
28 Carolyn K. Howland

1 SERVICE LIST

2 ***The Wimbledon Fund, SPC v. Graybox, LLC, et al.***
3 Central District of California – Case No. 15-CV-06633

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